

**STATUTE OF LIMITATIONS ON BAD
CHECKS**

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill clarifies that the statute of limitations on a dishonored check is six years.

Highlighted Provisions:

This bill:

- clarifies that the statute of limitations on a dishonored check is the earliest of:
 - six years after the dishonor of the check; or
 - 10 years after the date of the draft.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

70A-3-118, as repealed and reenacted by Laws of Utah 1993, Chapter 237

78B-2-309, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **70A-3-118** is amended to read:

70A-3-118. Statute of limitations.

(1) Except as provided in Subsection (5), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(2) Except as provided in Subsection (4) or (5), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the

note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of 10 years.

(3) Except as provided in Subsection (4), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within ~~three~~ six years after dishonor of the draft or 10 years after the date of the draft, whichever period expires first.

(4) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(5) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(6) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(7) Unless governed by other law regarding claims for indemnity or contribution, an action for conversion of an instrument, for money had and received, or like action based on conversion, for breach of warranty, or to enforce an obligation, duty, or right arising under this chapter and not governed by this section must be commenced within three years after the cause of action accrues.

Section 2. Section **78B-2-309** is amended to read:

78B-2-309. Within six years -- Mesne profits of real property -- Instrument in writing.

An action may be brought within six years:

(1) for the mesne profits of real property;

(2) upon any contract, obligation, or liability founded upon an instrument in writing, except those mentioned in ~~[Section]~~ Sections 78B-2-311 and 70A-3-118; and

(3) to recover fire suppression costs or other damages caused by wildland fire.

